



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov  
DW 11-01

Paper No. 5

ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
555 13TH STREET, N.W.  
SUITE 701, EAST TOWER  
WASHINGTON, DC 20004

**COPY MAILED**

**DEC 20 2001**

In re Application of	:	OFFICE OF PETITIONS
William A. Koehring	:	
Application No. 09/836,347	:	DECISION REFUSING STATUS
Filed: 18 April, 2001	:	
Attorney Docket No. N1239-008	:	

This is a decision on the petition filed on 6 November, 2001, under 37 CFR 1.47(a) and 1.48, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Steven S. Crafton (Crafton) and W. Ken Russell (Russell), (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from a person being added (Russell), (3) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration, and 4) as authorized by 37 CFR 1.48(a)(3), a petition under 37 CFR 1.47(a) to accept the declaration filed 6 November, 2001, which lacks the signature of Russell.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.48, 1.183, and 1.47."

The above-identified application was filed on 18 April, 2001, with an executed declaration naming William A. Koehring as the sole inventor.

On 6 November, 2001, the present petition was filed, whereby petitioners request that Russell and Crafton be added as a named inventor. Petitioners also request waiver of the rules in that Russell refuses to sign the declaration and the statement of lack of deceptive intent as required by 37 CFR 1.48.

As 37 CFR 1.48(a) requires any inventor being added to sign a statement of lack of deceptive intent and the oath or declaration, this petition is properly treated as a request for a waiver under 37 CFR 1.183.

**Petition Under 37 CFR 1.183 to waive 37 CFR 1.48(a).**

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47; (3) the fee set forth in 37 CFR 1.17(I); and (4) the written consent of any assignee, if any of the originally named inventors has executed an assignment; and (5) if the application is involved in an interference, the amendment to add claims must be accompanied by a motion under 37 CFR 1.634.

The present petition lacks item (4).

In response to item (4), petitioners have not provided proof of authority of the person who has signed the statement of consent by the assignee. The statement is signed by Ron Bell, the Director of Corn Research, Ag Reliant Genetics, LLC. The statement must be signed by an officer of the assignee company (president, vice president, secretary, or treasurer), or, if the statement is not signed by an officer of the company, then proof of authority of the person signing on behalf of the company must be submitted. As Mr. Bell is not a corporate officer, petitioners must submit proof of his authority to sign on behalf of the assignee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
Arlington, VA

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703) 308-6918.



Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy